

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

**JOSEPH J. TOMASZEWSKI,**

**Plaintiff,**

**v.**

**CAROLYN W. COLVIN, Acting  
Commissioner of Social Security,**

**Defendant.**

**CIVIL ACTION NO. 5:13-CV-374 (MTT)**

**ORDER**

Before the Court is the Plaintiff's motion for leave to appeal in forma pauperis (Doc. 27). Congress has provided that "[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." 28 U.S.C. § 1915(a)(3). "An appeal is not taken in good faith as contemplated by § 1915 when an in forma pauperis applicant seeks the review of issues which can be deemed frivolous from an objective standpoint." *Robinson v. Schafer*, No. 7:07-CV-167, 2008 WL 2622796, at \*1 (M.D. Ga.); *see also Coppedge v. United States*, 369 U.S. 438, 445 (1962). Federal Rule of Appellate Procedure 24 also governs motions for leave to appeal in forma pauperis and provides:

Excepted as stated in Rule 24(a)(3), a party to a district-court action who desires to appeal in forma pauperis must file a motion in the district court. The party must attach an affidavit that (A) shows in the detail prescribed by Form 4 of the Appendix of Forms the Party's inability to pay or to give security for fees and costs; (B) claims an entitlement to redress; and (C) states the issues that the party intends to present on appeal.

Fed. R. App. P. 24(a)(1).

Here, the Magistrate Judge assigned to this case initially granted the Plaintiff's motion to proceed in forma pauperis in the district-court action. (Doc. 5). On March 2, 2015, the Court entered an order adopting the Magistrate Judge's Recommendation to affirm the Commissioner's decision to deny the Plaintiff's application for disability benefits. (Doc. 24). The Plaintiff then filed a notice of appeal of the Court's order and submitted the present motion and the required affidavit in compliance with Rule 24. (Docs. 26; 27). The motion and affidavit satisfy the three elements of the appellate rule, and the Court sees no reason to certify that this appeal is taken in bad faith. Specifically, the Plaintiff claims that the Commissioner wrongfully determined he was not disabled and denied him benefits, even though a previous determination of disability had been made. Based on the Plaintiff's financial situation and compliance with federal rules, he should be allowed to proceed on appeal in forma pauperis. Accordingly, the Plaintiff's motion is **GRANTED**.

**SO ORDERED**, this 23rd day of April, 2015.

S/ Marc T. Treadwell  
MARC T. TREADWELL  
UNITED STATES DISTRICT COURT